

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

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DES MOINES, IOWA

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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,) Civil Action No. 3 02CV10063
v.)
FIRST STUDENT, INC.) CONSENT DECREE
Defendant.) AND ORDER

)

This action was filed by the Equal Employment Opportunity Commission ("Commission") on June 6, 2002, pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. In its Complaint, the Commission alleges that First Student violated Title VII by retaliating against James Doorley after he allegedly complained to managers and the Human Resources department that the Contract Manager to whom Doorley immediately reported was discriminating against and harassing other employees based on their race and/or sex. First Student denies that it retaliated against Doorley and denies that the Contract Manager to whom Doorley reported was discriminating against and harassing other employees based on their race and/or sex.

The Commission and First Student (the "Parties") have agreed to settle these claims in order to reach an amicable resolution of this matter and avoid further litigation. The terms of the agreement are set forth below.

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NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the parties, it is ORDERED, ADJUDGED, AND DECREED THAT:

1. This Court has jurisdiction over the subject matter of this action and over the parties for purposes of entering and enforcing this Consent Decree.
2. The terms of this Consent Decree are adequate, fair, reasonable, equitable and just.
3. This Consent Decree conforms with the Federal Rules of Civil Procedure and is not in derogation of the rights or privileges of any person. The entry of this Consent Decree will further the objectives of Title VII, and will be in the best interest of the Parties, those for whom the Commission seeks relief, and the public.
4. This Consent Decree resolves all claims arising out of the Charge of Discrimination filed by James Doorley, EEOC Charge No. 260-A1-0733, and constitutes a complete resolution of all claims under Title VII that were made or could have been made by Doorley in relation to the Charge. The Parties further agree that this Consent Decree does not, however, resolve any other claims or Charges that may be pending with the Commission other than the Charge specifically referred to in this paragraph.
5. This Consent Decree, the Exhibits and the Doorley Release of his Title VII claims comprise the full and exclusive agreement of the Parties with respect to the matters discussed herein. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Consent Decree (including the Exhibits attached hereto). This Consent Decree is final and binding upon the Parties, their successors and assigns.

Scope of Consent Decree

6. This Consent Decree shall be applicable to all of First Student's employees at its Iowa City facility and to all officers, managers and human resources personnel responsible for supervising the Iowa City location for three (3) years from the date of entry of this Consent Decree. During that time, this Court shall retain jurisdiction over this matter and the Parties for purposes of enforcing compliance with the Consent Decree, including issuing such orders as may be required to effectuate its purpose.

General Injunctive Provisions

7. Sexual and Racial Harassment. During the term of this Consent Decree, First Student and its officers, agents, and managers (including supervisory employees), are hereby enjoined from engaging in any behavior that harasses or intimidates employees on any basis prohibited by Title VII, and will not condone and will enforce its policy of "zero tolerance" for acts of discrimination and/or harassment on the basis of race or sex.

8. Retaliation. During the term of this Consent Decree, First Student and its officers, agents, and managers (including supervisory employees), are hereby enjoined from taking any adverse action or retaliation against any employee or former employee for exercising the right to oppose any practice made an unlawful employment practice by Title VII or to make a charge, testify, assist, or participate in an investigation, proceeding or hearing under 42 U.S.C. § 2000e *et seq.*

Monetary Relief

9. Within 20 days after the signature of the Consent Decree and Order by the Court, First Student shall make the following payments:

A total of eighty thousand dollars (\$80,000.00) payable in two equal installments to James Doorley as compensation for alleged emotional distress damages and other compensatory damages, including injury to reputation. The first installment of forty thousand dollars (\$40,000.00) shall be paid within ten (10) days of entry of this Consent Decree. The remaining payment of forty thousand dollars (\$40,000.00) shall be paid on April 5, 2004. First Student shall issue a form 1099 for these amounts.

The checks shall be mailed certified mail, return receipt requested, to James Doorley at 710 Spring Street, Iowa City, IA 52246. A copy of the check shall be mailed simultaneously to the undersigned counsel for the Commission.

10. Neither the Commission nor First Student makes any representations, or assumes any responsibility for any tax liability, assessments, interest, penalties and/or costs that Doorley may or may not incur under local, state and/or federal laws by reason of the settlement funds paid under this Consent Decree.

Specific Non-Monetary Relief

11. In order to effectuate the objectives embodied in this Consent Decree, First Student will implement and enforce the following procedures and practices:

a. Complaint Procedures

As described in Exhibit B to this Consent Decree, First Student shall provide its employees with convenient, confidential (to the extent possible) and reliable mechanisms for reporting incidents of sexual harassment, race harassment and/or retaliation. As described in Exhibit B to this Consent Decree, First Student shall maintain personnel responsible for receiving, investigating, issuing appropriate discipline regarding complaints of sexual harassment, race harassment and retaliation. Their names, responsibilities, work locations, and

telephone numbers must be routinely and continuously posted for the duration of this Consent Decree.

b. Training

Within ninety (90) days after the entry of this Consent Decree by the Court, First Student shall provide training to all of its Iowa City personnel, including but not limited to the Contract Manager, Regional Vice President and all Human Resources personnel or other employees responsible for supervising the Iowa City location, at its expense, relating to First Student's obligation to maintain a work environment free from discrimination and harassment on the basis of race or sex and regarding First Student's obligation not to retaliate against individuals who complain about discrimination in the workplace. This training will also instruct all employees on the policies and procedures of reporting, responding to, and investigating claims of racial or sexual harassment or retaliation.

First Student shall retain an independent company specializing in the provision of education and training to employees regarding sexual harassment, race harassment, and retaliation to provide such training. Within thirty (30) days of completion of the training, First Student must send to undersigned counsel for the Commission written verification that the training was satisfactorily completed.

The training will be repeated annually while this Consent Decree remains in effect, however, the training conducted in the second and third years of the Consent Decree will be provided by in-house representatives of First Student who have previously completed the training provided by the outside consultant. In-house representatives shall be bound by the same training requirements as the outside consultants, however, appropriate updates to the sexual harassment, race harassment and retaliation training must be added. Within thirty (30) days of

completion of the training, First Student must send to undersigned counsel for the Commission written verification that the training was satisfactorily completed.

c. Record-keeping and Reporting

For three (3) years from the date of this Consent Decree, First Student shall document and maintain records related to every Complaint that it or any manager or supervisor receives alleging sexual harassment, race harassment and retaliation, at the Iowa City location, or those locations associated with the supervision of the Iowa City location. A "Complaint" is defined as any allegation or statement that can be reasonably interpreted as relating to sexual harassment, race harassment and/or retaliation, including but not limited to any oral or written allegation or statement: (a) by a person subject to such a violation; (b) by a person witnessing such a violation; and/or (c) by a supervisor, manager or senior management official reporting such a violation. First Student shall also provide the undersigned counsel for the Commission within seven (7) business days after completion of any investigation regarding a Complaint, a Report of the Complaint. The Reports shall include the following information for each Complaint: the name, address, and telephone number of all employees who rendered a Complaint; the date and nature of each Complaint; the identity of each person to whom each Complaint was made; and the action taken by First Student in response to each Complaint. The Commission may, at its discretion, inspect and copy any documents maintained by First Student underlying each Complaint. The Commission shall give written notice to First Student regarding the Commission's intention to inspect the documents, and First Student shall have ten (10) days to comply with such request. In addition, if upon review of the Reports, the Commission has reason to believe that the investigation was not conducted properly, it has, at its discretion, the

right, upon reasonable notice, to interview witnesses and/or hire an external investigator at its expense.

d. Neutral Reference

When and if First Student is contacted by a prospective employer of James Doorley for an employment reference, First Student shall provide a neutral reference that states:

James Doorley was employed with First Student as a bus driver from August of 1997 until August of 1998 and as a dispatcher from August of 1998 until June of 2000. Mr. Doorley's final rate of pay was \$ _____ per hour.

First Student shall not disclose to any other employer or potential employer that contacts First Student seeking a reference any facts or circumstances surrounding Doorley's charges of retaliation or the events relating to the charges or this lawsuit. Doorley agrees to direct any such prospective employer to contact only First Student's Director of Human Resources.

Posting of Notices

12. Within two (2) weeks after entry of this Consent Decree, First Student shall post: (1) the notice attached as Exhibit A; (2) all First Student policies and procedures regarding sexual harassment, race harassment and retaliation; (3) the names, responsibilities, work locations and telephone numbers of the personnel charged with receiving, investigating and taking appropriate disciplinary action in response to complaints of sexual harassment, race harassment and retaliation, in compliance with paragraph 11(a) above; and (4) the existence and function of First Student Corporate Human Resources including the name, telephone number and address at which First Student Corporate Human Resources may be reached and the employees' right to contact First Student Corporate Human Resources, (collectively the "Notices"). These Notices shall be posted in prominent and conspicuous locations where notices to employees are customarily posted in First Student's Iowa City facility, and those facilities where supervisors,

mangers and human resources personnel reside who are responsible for or supervise the Iowa City location, and shall be individually distributed to First Student employees responsible for implementing aspects of this Consent Decree. The Notices shall remain posted for the duration of this Consent Decree. In the event that the persons and/or departments to whom individuals should make complaints alleging sex-harassment, race harassment and/or retaliation change during the term of the Consent Decree such that the information contained on the Notices is no longer accurate, First Student shall promptly revise the Notices so that they contain the correct information.

13. First Student shall provide a copy of the Consent Decree to any employee who requests one.

Dispute Resolution and Compliance

14. In the event that either party to this Consent Decree believes that the other party has failed to comply with any provision(s) of the Consent Decree, the complaining party shall notify the alleged non-complying party in writing of such non-compliance and afford the alleged non-complying party ten (10) business days to remedy the non-compliance or satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief. In the event that, upon the expiration date of this Consent Decree, a dispute is pending pursuant to this paragraph, then the term of this Consent Decree shall be extended, with respect to the issue in dispute only, until such time as such dispute is resolved by the Parties or the Court.

15. First Student agrees that the Commission may review compliance with this Consent Decree. As part of such review, the Commission may inspect the premises, interview employees and examine and copy documents. The EEOC shall provide notice seven (7) days in advance of an inspection.

Costs and Notices

16. Each Party shall bear its own litigation costs and attorneys' fees associated with this litigation, and neither Party shall seek reimbursement for any outstanding litigation costs.

17. Except as is otherwise provided for in this Consent Decree, all notifications, reports and communications to the Parties required under this Consent Decree shall be made in writing and shall be sufficient as hand-delivered or sent by first class mail to the following persons:

For EEOC:

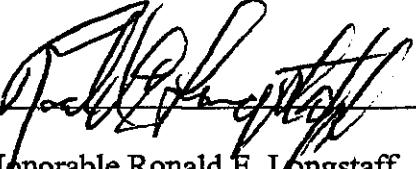
Deborah J. Powers, Esq.
Senior Trial Attorney
EEOC
310 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203

For First Student:

Thomas A. Secrest, Esq.
First Student, Inc.
705 Central Avenue, Suite 500
Cincinnati, Ohio 45202-5755

Any party may change such addresses by written notice to the other party, setting forth a new address for this purpose. Notwithstanding the provisions for notification contained in this paragraph, the Parties may send each other such notifications, reports and communications by facsimile transmission.

SO ORDERED, ADJUDGED AND DECREED this 8 day of Aug, 2003.

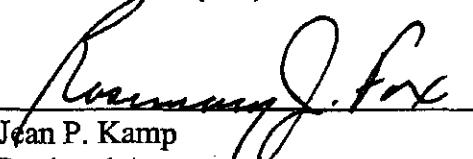


Honorable Ronald E. Longstaff
Chief United States District Court Judge
Southern District of Iowa

Agreed to in form and content:

FOR THE PLAINTIFF

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
310 West Wisconsin Avenue, Suite 800
Milwaukee, WI 53203
Telephone: (414) 297-3983
Facsimile: (414) 297-3146

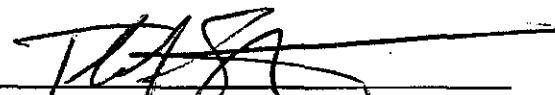


for
Jean P. Kamp
Regional Attorney

8/1/03

Date

FOR THE DEFENDANT
FIRST STUDENT, INC.



Thomas A. Seacrest, Esq.
Associate General Counsel
Director of Labor Relations
First Student, Inc.

7/31/03

Date

EXHIBIT A

**OFFICIAL NOTICE TO ALL THE EMPLOYEES
OF FIRST STUDENT, INC.**

This Notice is posted pursuant to a Consent Decree entered in a lawsuit brought by the Equal Employment Opportunity Commission ("EEOC"), entitled EEOC v. First Student, Inc, Case Number 3 02CV10063, filed in the United States District Court for the Southern District of Iowa.

In the lawsuit, EEOC alleges that First Student violated Title VII by retaliating against an employee, James Doorley, when it terminated his employment because he alleges that he complained to managers and the Human Resources department that the Contract Manager to whom he immediately reported was discriminating against and harassing other employees based on their race and/or sex. First Student denies that it retaliated against Mr. Doorley and denies that discriminating or harassing conduct occurred.

By agreement of the parties and without making any determination about the merits of the case, United States District Court Chief Judge Ronald E. Longstaff has entered a consent decree which provides:

- First Student agrees to make a payment to Mr. Doorley.
- First Student agrees not to condone sexual harassment, race harassment or retaliation against persons who oppose such harassment and to enforce its policy of zero tolerance regarding sexual harassment, race harassment, and retaliation. In other words, First Student will not harass or retaliate against employees because they have opposed practices they believe to be discriminatory, or have participated in any manner in an investigation or court case under Title VII.
- First Student agrees to provide mandatory annual sexual harassment, race harassment and retaliation training to its employees in its Iowa City location, and all those locations responsible for supervising the Iowa City location, and to make all employees in the Iowa City location, and those employees supervising the Iowa City location, aware of First Student's zero tolerance policy forbidding any such discrimination, harassment, and retaliation and providing for disciplinary action against violators.

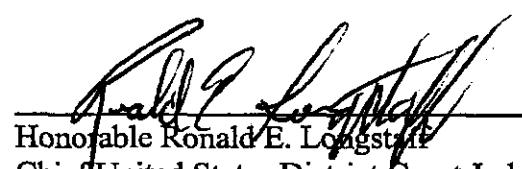
THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for three (3) years from the date shown below and must not be altered, defaced or covered by any other material. Any questions about this Notice or about First Student's compliance with its provisions may be directed to First Student Settlement,

Equal Employment Opportunity Commission, 310 West Wisconsin Avenue, Suite 800,
Milwaukee, WI 53203, 1-800-669-4000.

Dated:

August 8, 2003


Honorable Ronald E. Longstaff
Chief United States District Court Judge
Southern District of Iowa

705 Central Avenue, Suite 300
Cincinnati, Ohio 45202-5755
Tel 513-241-2200
Fax 513-381-0149
www.firstgroupamerica.com



August 1, 2002

TO: First Student Employees
FROM: Bruce Lyskawa
President, First Student, Inc.
RE: Harassment Free Workplace

We value the diversity of our employees at First Student, Inc. and believe that fostering an environment that respects employee differences is critical to First Student's success. We feel it is important to have a team that reflects the diversity of our customers and the communities in which we do business. We expect each of you to uphold and encourage an atmosphere that supports and welcomes the unique qualities and contributions of all our employees.

We firmly believe that our employees must be able to work in an environment that is free of harassment and discrimination. There is "zero tolerance" for any form of harassment, but also unintentional and careless acts that may contribute to creating a hostile environment for some employees. For example, employees should not tell jokes or stories which are sexually offensive or discriminatory as to race, gender, religion, or sexual orientation. Employees should not make offensive gestures of sexual nature and should not make unwanted or otherwise inappropriate comments about the physical appearance of another person. Our work place should be free of pictures, cartoons or other illustrations that are sexually explicit or otherwise inappropriate. In addition, it is important that all company events and meetings, including meetings with and entertainment of customers, take place at locations that do not offend any employees who may wish to participate. For example, meetings and company-sponsored entertainment at "adult" clubs in inappropriate.

Observing these policies and valuing the differences of our employees are critical to our success. These policies are not intended to take the enjoyment out of doing our jobs, but rather are intended to promote a harassment free workplace by setting the standard for our expected behavior.

Any employee who feels he/she is the victim of workplace harassment, or witnesses unlawful harassment or abuse, whether from management, co-workers, or third parties, should promptly report the matter to their immediate supervisor or Contract Manager. If the employee feels uncomfortable discussing the issue with local management, the employee should contact the Vice-President of Human Resources, Rick Vilines at 513-419-3262, or the Director of Human Resources, Larry Whitler at 513-419-3298, at the Corporate Office.

No adverse action or retaliation will take place against any employee who reports issues of workplace harassment.